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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2013–0007]

[Notice No. 138]

RIN: 1513–AC01

Proposed Establishment of the Malibu Coast Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the “Malibu Coast” viticultural area in portions of Los Angeles County and Ventura County, California. The proposed viticultural area, if established, would include the existing Saddle Rock–Malibu and Malibu–Newton Canyon viticultural areas. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: We must receive your comments on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please send your comments on this notice to one of the following addresses (please note that TTB has a new address for comments submitted by U.S. mail):

- Internet: <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB–2013–0007 at “Regulations.gov,” the Federal e-rulemaking portal);

- U.S. Mail: Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; or

- Hand delivery/courier in lieu of mail: Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200E, Washington, DC 20005.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments that TTB receives about this proposal at <http://www.regulations.gov> within Docket No. TTB–2013–0007. A link to that docket is posted on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 138. You also may view copies of this notice, all related petitions, maps, or other supporting materials, and any comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the

establishment or modification of American viticultural areas and lists the approved American viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following:

- Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;

- An explanation of the basis for defining the boundary of the proposed viticultural area;
- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, and that make the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and
- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

Malibu Coast Petition

TTB received a petition from Ralph Jens Carter, proposing the establishment of the “Malibu Coast” American viticultural area in portions of Los Angeles and Ventura Counties in southern California. The proposed viticultural area is a long, narrow, region along the Pacific coast, and is largely located within the Santa Monica Mountains National Recreation Area. The landscape of the proposed viticultural area is characterized by steep, rugged hillsides incised by steep-sided valleys and long, narrow canyons that empty into the Pacific Ocean. The cities of Oxnard and Camarillo are to the west, and the city of Los Angeles is located to the east. The Simi Valley and Simi Hills are located to the north of the proposed viticultural area, as well as the heavily urbanized regions of Thousand Oaks, Calabasas, Greenwich Village, and Conejo Valley.

The proposed viticultural area contains approximately 44,590 acres of privately-owned land. There are 52 commercially producing vineyards covering approximately 198 acres within the proposed viticultural area. The vineyards within the proposed viticultural area are scattered across the steep sides of the mountains, valleys, and canyons. The steep mountain slopes require extra effort to cultivate, thus contributing to the small size of many of the vineyards. Many of the vineyards are planted as firebreaks near private homes, to separate the properties from the surrounding native chaparral vegetation, which is particularly susceptible to fire due to its thick growth and high concentration of oils.

The proposed viticultural area contains several State and county parks and preserves, in addition to the Federal lands of the Santa Monica Mountains National Recreation Area. According to the petition, approximately 15 percent of the land within the proposed viticultural area is administered by the Federal Government and approximately 22 percent is administered by the California Department of Parks and Recreation. The acreage count of the publicly-owned lands is not included in the 44,590-acre size approximation of the proposed viticultural area because publicly-owned lands are not available for commercial viticulture. However, the boundaries of the proposed Malibu Coast viticultural area boundaries do not physically exclude the publicly-owned lands because boundaries that would exclude those lands would be cumbersome to describe and difficult to administer.

According to the petition, the distinguishing features of the proposed Malibu Coast viticultural area include its topography, soils, and climate. TTB

notes that the proposed Malibu Coast viticultural area does not lie within any existing viticultural area. However, the smaller existing Malibu–Newton Canyon (27 CFR 9.152) and Saddle Rock–Malibu (27 CFR 9.203) viticultural areas are both located within the proposed viticultural area. The proposed viticultural area does not overlap with any other existing or proposed viticultural areas. Unless otherwise noted, all information and data contained in this document concerning the name, boundary, and distinguishing features of the proposed viticultural area are from the petition for the proposed Malibu Coast viticultural area and its supporting exhibits.

Name Evidence

The proposed Malibu Coast viticultural area lies along the coast of the Pacific Ocean and includes the city of Malibu, California. According to the petition, the name “Malibu” may have derived from a Chumash Indian word “(hu)mal-iwu,” which means, “it makes a loud noise all the time over there,” referring to the sound of the surf. The word was later translated by the Spaniards into “Umalibo.” The present-day spelling of “Malibu” first appeared in 1805, in documents to establish the Rancho Topanga Malibu Sequit land grant. Much of the proposed viticultural area lies within the former land grant and thus takes its name from that land grant.

A search of the United States Geological Survey (USGS) Geographic Names Information System (GNIS) revealed 31 entries within the proposed viticultural area containing the word “Malibu” in the name, including 6 schools, 4 parks, 2 reservoirs, a stream, a cliff, a beach, and an airport. According to the

petition, several tasting rooms and vineyards within the proposed viticultural area use the word “Malibu” in their names, including Cielo Malibu Estate, Malibu Family Wines, Malibu and Vine, Bodegas Gomez de Malibu, Donlin Malibu Estates Vineyards, Malibu Rocky Oaks, Malibu Sanity, and Malibu Vineyards.

According to the petition, the growers in the proposed viticultural area chose the name “Malibu Coast” to emphasize the region’s location along the Pacific Ocean and the influence the ocean has on the climate. The petition included several exhibits offered as evidence of the use of the name “Malibu Coast” within the region of the proposed viticultural area. One exhibit, a National Park Service map titled “Geology of the Santa Monica Mountains,” shows a fault line labeled as the “Malibu Coast Fault Line” running from west of Point Dume, which is in the center of the southern boundary of the proposed viticultural area, to Santa Monica Bay, at the eastern edge of the proposed viticultural area. The petition also offers as name evidence information on two businesses in the region that incorporate “Malibu Coast” in their names: Malibu Coast Animal Hospital and Malibu Coast Nursery and Landscaping. Finally, the petitioner submitted a list of vineyards located within the proposed viticultural area, which included a vineyard named Malibu Coastal Vineyard.

Boundary Evidence

The proposed Malibu Coast viticultural area is a long, narrow region located within the Santa Monica Mountains along the Pacific Ocean. The boundary of the proposed viticultural area approximates the boundary of the Santa Monica Mountains National Recreation Area, and the proposed viticultural

area contains approximately 44,590 acres of privately owned land that are available for commercial viticulture.

The northern portion of the proposed boundary roughly follows U.S. Highway 101 from Oxnard to the city of Los Angeles and separates the largely rural proposed viticultural area from the densely populated urban areas of Thousand Oaks, Calabasas Greenwich Village, Conejo Valley, Simi Valley, and Simi Hills. The proposed northern boundary also divides the high, steep slopes of the Santa Monica Mountains within the proposed viticultural area from the lower elevations of Conejo Valley, Simi Valley, and the Simi Hills. Because of its distance inland and the sheltering effects of the Santa Monica Mountains, the region north of the proposed viticultural area is significantly less influenced by the cool, moist breezes of the Pacific Ocean. However, a portion of Las Virgenes Canyon that extends north of U.S. Highway 101 is included within the proposed viticultural area because its terrain is similar to that of the rest of the proposed viticultural area and because Las Virgenes Creek, which lies within the Las Virgenes Canyon and empties into the Pacific Ocean, allows the marine influence to travel the length of the canyon.

The eastern portion of the proposed boundary follows the Los Angeles city limits and the boundary of Topanga State Park. The city of Los Angeles lies east of the proposed viticultural area border and is excluded from the proposed viticultural area due to its dense urban environment, which is unsuitable for commercial viticulture. Although the geographical features of Topanga State

Park are similar to those of the proposed viticultural area, it is unavailable for commercial viticultural due to its status as a State park.

The southern boundary of the proposed viticultural area follows State Route 1 (the Pacific Coast Highway) in a westerly direction from Topanga State Park to the Naval Air Weapons Station and Naval Base Ventura County. A series of narrow State and county beach parks line the coast immediately outside the length of the proposed southern boundary and, other than Point Dume, the land south of State Route 1 is excluded from the proposed viticultural area because these public beaches are unavailable for commercial viticulture.

The western boundary of the proposed viticultural area runs between State Route 1, near the Naval Air Weapons Station and Naval Base Ventura County, and U.S. Highway 101 east of the Camarillo Airport and follows a series of roads and elevation contours. The regions to the west of the proposed boundary were excluded from the proposed viticultural area because their flat, low elevations and marshy coastline are topographically distinctive from the marine terraces and high, steep mountains of the proposed viticultural area. Additionally, because most of this region is covered by military installations and the dense urban areas of Oxnard and Camarillo, there is little suitable land available for commercial viticulture.

Distinguishing Features

The distinguishing features of the proposed Malibu Coast viticultural area are topography, soils, and climate. Because the proposed viticultural area is bordered by public beaches and the Pacific Ocean to the south, and both

Topanga State Park and the heavily urbanized city of Los Angeles to the east, the discussion of distinguishing features only compares the proposed viticultural area with the regions to the north and west.

Topography

The topography of the proposed Malibu Coast viticultural area is characterized by the Santa Monica Mountains, which are oriented along an east-west axis between the cities of Los Angeles, to the east, and Oxnard and Camarillo, to the west. The mountain range begins as low marine terraces along the coastline and rapidly rises towards the north, increasing in steepness and elevation, with a maximum height of 3,111 feet at Sandstone Peak, in the western portion of the proposed viticultural area. Small steep-sided valleys and narrow, north-south oriented canyons that empty into the Pacific Ocean are also interspersed throughout the mountainsides. According to the petition, the steep slopes provide excellent water drainage for vineyards. Additionally, the north-south orientation of the canyons allows cool, moist air and fog from the Pacific Ocean to travel deep into the proposed viticultural area and thus contributes to the moderate temperatures within the proposed viticultural area.

The slopes of the Santa Monica Mountains within the proposed viticultural area tilt predominately toward the south, allowing the vineyards planted on the south-facing slopes to receive high amounts of solar radiation. The southerly orientation of the slopes also exposes the vineyards to sunlight that is reflected off the water of the Pacific Ocean, an effect known as a “second sun.” The high level of solar radiation warms the soil in the vineyards quickly, which stimulates

vine growth and fruit maturation. The warmed soil then slowly releases the stored heat back into the air in the early morning, at night, and during periods of cloud cover, providing a source of warmth to the vines during the times when the surrounding air temperature is cool.

Conejo Valley, Simi Valley, and the Simi Hills are located to the north of the proposed viticultural area, and the elevations within these regions are generally lower than elevations within the proposed Malibu Coast viticultural area. According to USGS maps provided with the petition, elevations within Conejo Valley and Simi Valley range between 640 and 700 feet. Elevations within the Simi Hills range between 1,800 and 2,400 feet. The Simi Hills have a north-south orientation, compared to the east-west orientation of the Santa Monica Mountains, and therefore do not receive as much solar radiation as the southward-facing slopes of the proposed viticultural area. Although there are canyons within the region north of the proposed viticultural area, the canyons do not stretch all the way to the ocean and thus do not serve as conduits for the cool, moist Pacific air and fog to reach the inland areas.

The terrain in the region west of the proposed viticultural area is lower and flatter than the terrain of the proposed viticultural area. Elevations to the west of the proposed viticultural area range from sea level along the shore of the Pacific Ocean to approximately 200 feet near the city of Camarillo, as shown on USGS maps. The coastline of the region west of the proposed viticultural area is dominated by the low, flat wetlands of Mugu Lagoon and lacks the marine terraces that characterize the coastline of the proposed viticultural area.

Soils

The soils of the proposed Malibu Coast viticultural area are derived from both volcanic parent rock and sedimentary parent rock, including combinations of sandstone, slate, and shale. According to the petition, this combination of both volcanic and sedimentary soils is unique among other California coastal regions, which generally lack volcanic soils.

Seventy-five percent of the soils within the proposed viticultural area are of four soil associations: Cotharin–Talepop–Rock Outcrop; Mipolomol–Topanga–Sapwi; Chumash–Malibu–Boades; and Zumaridge–Rock Outcrop–Kawenga. Soils of the Cotharin–Talepop–Rock Outcrop association derive from volcanic rocks. The Mipolomol–Topanga–Sapwi, Chumash–Malibu–Boades, and Zumaridge–Rock Outcrop–Kawenga associations all have soils that are derived from sedimentary sources. All four of the soil associations are described as shallow, well drained soils commonly found on steep slopes. Shallow soils prevent overly vigorous vine growth and produce a thinner leaf canopy that allows sunlight to reach the fruit. In humid regions such as the proposed viticultural area, mildew and rot can form on fruit that is too shaded by the leaf canopy. Well drained soils are beneficial to viticulture because water does not accumulate long enough to lead to root rot or mildew.

The petition states that continuous human habitation within the Santa Monica Mountains of the proposed viticultural area has altered the nutrient content of the soils. Humans have inhabited the mountains for approximately 8,000 years, and large villages have been common throughout that time. The

large number of bones and shells deposited in waste pits by the inhabitants throughout the ages has raised the level of calcium and phosphorus in the soils to higher levels than in the surrounding regions, according to the United States Department of Agriculture's 2006 edition of the "Soil Survey of the Santa Monica Mountains National Recreation Area." Both calcium and phosphorus are important nutrients for vine growth and fruit development.

The region located to the north of the proposed viticultural area contains soils of the Rincon–Huerhuero–Azule association. These soils are comprised of alluvium and are found on level to moderately steep slopes. The soils are described as being very deep and moderately well drained.

The regions to the west of the proposed viticultural area contain soils of the Sulfic Fluvaquents–Camarillo–Pacheco and the Camarillo–Hueneme–Pacheco association. These soils are comprised of alluvium derived primarily from sedimentary rocks and are found on nearly level terrain such as flood plains and tidal flats. These soils are also very deep and poorly drained.

Climate

The climate of the proposed Malibu Coast viticultural area is influenced by air masses over both the Pacific Ocean and the inland valleys to the north of the proposed viticultural area. During the afternoon, the warm air of the inland valleys rises. As the warm air rises, it pulls cool, moist air from the ocean along the canyons and up the mountainsides of the proposed viticultural area. These moist breezes raise the relative humidity levels within the proposed viticultural area to about 50 percent during the summer. The moisture in the air reduces

heat stress on the vineyards. At night, the breezes change direction as the relatively warmer air over the ocean rises and pulls the cooler, drier nighttime air from the inland valleys into the proposed viticultural area. The dry nighttime breezes help remove excess moisture from the vines and fruit and reduce the growth of mildew.

The proposed Malibu Coast viticultural area has moderate growing season temperatures. Growing degree day¹ (GDD) accumulations gathered within the proposed viticultural area between 2005 and 2009 show that the proposed viticultural area receives between approximately 2,500 and 3,000 GDD units annually. This data categorizes the proposed viticultural area as a Region II or low Region III climate on the Winkler scale.

Rainfall within the proposed viticultural area varies depending on elevation. Along the coastline and the lower marine terraces, rainfall averages 12 to 16 inches annually. At higher elevations within the proposed viticultural area, rainfall may be as high as 30 inches annually.

The region to the north of the proposed viticultural area is primarily influenced by the inland air mass, with little marine influence. Although warm air rising from both Conejo Valley and Simi Valley draws moist air inland from the Pacific Ocean, most of the marine air is significantly drier by the time it travels over the Santa Monica Mountains and reaches the valleys. As a result, relative

¹ In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDD, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth ("General Viticulture," by Albert J. Winkler, University of California Press, 1974, pages 61-64).

humidity levels within the inland valleys are lower than those of the proposed viticultural area, with humidity levels averaging 20 percent or lower during the summer. Lower humidity levels also result in less rainfall in the inland valleys, with the weather station at Canoga Park averaging only 16.47 inches of rain a year. Because the Pacific air has also warmed by the time it reaches the inland valleys, temperatures are hotter in the region north of the proposed viticultural area. The Canoga Park weather station recorded an average of 5,176 GDD units, placing the area in the very warm Region V category.

The region to the west of the proposed viticultural area shares a similar climate with the lower coastal elevations of the proposed Malibu Coast viticultural area. However, because much of the land is either within the dense urban areas of Oxnard and Camarillo or reserved for military purposes, it is generally unsuitable for commercial viticulture.

Comparison of the Proposed Malibu Coast Viticultural Area to the Existing Malibu–Newton Canyon and Saddle Rock–Malibu Viticultural Areas

Malibu–Newton Canyon Viticultural Area

The Malibu–Newton Canyon viticultural area was established by T.D. ATF–375, which published in the **Federal Register** on June 13, 1996 (61 FR 29949). It is a bowl-shaped valley located high on the south-facing side of the Santa Monica Mountains in Los Angeles County, California. The floor of the valley has an elevation of approximately 1,400 feet, with elevations at the rim of the valley ranging from 1,800 to 2,000 feet along the southern rim to 2,100 to 2,800 feet along the northern rim. Although the viticultural area is located within a valley, the terrain of the valley floor includes rolling hills and very few expanses

of level ground. According to the website of the single vineyard within the Malibu–Newton Canyon viticultural area, Rosenthal Estates, the vines are all planted on the slopes of these rolling hills and the walls of the valley to ensure the optimal soil and drainage conditions for viticulture (see www.rosenthalestatewines.com)

T.D. ATF–375 described the Malibu–Newton Canyon viticultural area as a microclimate within the larger Santa Monica Mountains. The southern rim of the valley is high enough to block the heaviest marine fogs from entering the viticultural area, but low enough to allow some of the cooling breezes into the canyon. The climate within the viticultural area is described as warm and sunny, with summer temperatures frequently exceeding 80 degrees Fahrenheit. Light fog is often present in the evenings and early mornings, as cooler air from higher elevations settles into the canyon. Rainfall averages approximately 24 inches annually. Soils within the Malibu–Newton Canyon viticultural area are described as a mixture of loam, clay, and silt and are moderately deep and moderately to highly fertile.

The proposed Malibu Coast viticultural area, if approved, would include the Malibu–Newton Canyon viticultural area. Both the proposed and existing viticultural areas share several characteristics which affect viticulture. Both the Malibu–Newton Canyon viticultural area and most of the slopes of the proposed Malibu Coast viticultural area face south, exposing both regions to high amounts of solar radiation that promote efficient photosynthesis in grapevines. The amounts of average annual rainfall within the Malibu–Newton Canyon viticultural

area and the proposed viticultural area fall within the same range of precipitation. Additionally, T.D. ATF-375 states that the soils of the Malibu-Newton Canyon are calcareous, meaning they contain high levels of calcium, which is a characteristic of the soils of the proposed Malibu Coast viticultural area. Calcium plays an important role in the development of grape clusters. Finally, the vineyards within the Malibu-Newton Canyon viticultural area are planted on sloping hillsides, as are most of the vineyards in the proposed Malibu Coast viticultural area, and therefore require similar cultivation techniques.

The Malibu-Newton Canyon viticultural area also has some unique features that distinguish it from the surrounding proposed Malibu Coast viticultural area. The Malibu-Newton Canyon viticultural area is a single bowl-shaped valley, whereas the proposed Malibu Coast viticultural area encompasses an entire mountain range characterized by marine terraces and steep slopes, although other steep-sided canyons and valleys do exist within the proposed viticultural area. Additionally, both the bowl shape and the high elevation of the Malibu-Newton Canyon viticultural area shield it from much of the marine fog, which is more common along the lower slopes and within the long, narrow, north-south ranging canyons within the proposed Malibu Coast viticultural area.

Saddle Rock-Malibu Viticultural Area

The Saddle Rock-Malibu viticultural area was established by T.D. TTB-52, which published in the **Federal Register** on July 17, 2006 (71 FR 40397). The viticultural area is described as a valley in the higher elevations of the Santa

Monica Mountains in Los Angeles County, California. Elevations within the Saddle Rock–Malibu viticultural area range from 1,700 to 2,236 feet. According to T.D. TTB–52, the viticultural area is on the north-facing leeward side of the crest of the Santa Monica Mountains, which limits the extent of the cooling marine influence and marine fog. As a result, the climate is warm and dry, with an average of 4,000 GDD units. The soils are described as a mixture of clay and loam that is well drained.

The proposed Malibu Coast viticultural area, if approved, would include the Saddle Rock–Malibu viticultural area. Both the proposed and existing viticultural areas share several characteristics, including high elevations, well-drained soils, and warm temperatures. However, the Saddle Rock–Malibu viticultural area also has features that distinguish it from the surrounding proposed Malibu Coast viticultural area. The Saddle Rock–Malibu viticultural area is in a sheltered location on the leeward side of the ridgeline, which blocks most of the cool, moist marine influence and produces a microclimate that is warmer than the average climate of the proposed Malibu Coast viticultural area. Additionally, the Saddle Rock–Malibu viticultural area is a single valley that contrasts with the steep mountain landscape that dominates the proposed Malibu Coast viticultural area, although the proposed viticultural area does contain several other canyons and high valleys.

TTB Determination

TTB concludes that the petition to establish the 44,590-acre Malibu Coast viticultural area merits consideration and public comment, as invited in this notice.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and TTB lists them below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If TTB establishes this proposed viticultural area, its name, "Malibu Coast," will be recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using "Malibu Coast" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the viticultural area's full name as an appellation of origin.

The approval of the proposed Malibu Coast viticultural area would not affect any existing viticultural area, and any bottlers using "Saddle Rock–Malibu" or "Malibu–Newton Canyon" as an appellation of origin or in a brand name for wines made from grapes grown within the Saddle Rock–Malibu or Malibu–

Newton Canyon viticultural areas would not be affected by the establishment of this new viticultural area. The establishment of the Malibu Coast viticultural area would allow vintners to use “Malibu Coast” or “Saddle Rock–Malibu” as appellations of origin for wines made from grapes grown within the Saddle Rock–Malibu viticultural area if the wines meet the eligibility requirements for the appellation. Additionally, vintners would be allowed to use “Malibu Coast” or “Malibu–Newton Canyon” as appellations of origin for wines made from grapes grown within the Malibu–Newton Canyon viticultural area if the wines meet the eligibility requirements for the appellation.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with a viticultural area name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed Malibu Coast viticultural area. TTB is also interested in receiving comments on the sufficiency and accuracy of the name, boundary, topography, soils, climate, and other required information submitted in support of the petition. In addition, TTB is interested in comments on whether the geographic features of the existing Saddle Rock–Malibu and Malibu–Newton Canyon viticultural areas are so distinguishable from those of the proposed Malibu Coast viticultural area that either or both of the existing viticultural areas should not be part of the proposed viticultural area. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Malibu Coast viticultural area on wine labels that include the term “Malibu Coast” as discussed above under **Impact on Current Wine Labels**, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the viticultural area.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- Federal e-Rulemaking Portal: You may send comments via the online comment form posted with this notice within Docket No. TTB–2013–0007 on “Regulations.gov,” the Federal e-rulemaking portal, at <http://www.regulations.gov>. A direct link to that docket is available under Notice No. 138 on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the “Help” tab at the top of the page.
- U.S. Mail: You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005.
- Hand Delivery/Courier: You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 138 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and you may view, copies of this notice, selected supporting materials, and any electronic or mailed comments TTB receives about this proposal. A direct link to that docket is available on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 138. You may also reach the docket containing this notice and the posted comments received on it through the Regulations.gov search page at <http://www.regulations.gov>.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address

information, including e-mail addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this notice, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact TTB's information specialist at the above address or by telephone at 202-453-2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this proposed rule.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9._____ to read as follows:

§ 9._____ Malibu Coast.

(a) Name. The name of the viticultural area described in this section is “Malibu Coast”. For purposes of part 4 of this chapter, “Malibu Coast” is a term of viticultural significance.

(b) Approved maps. The 10 United States Geological Survey 1:24,000 scale topographic maps used to determine the boundary of the Malibu Coast viticultural area are titled:

- (1) Canoga Park, Calif., 1953; photorevised 1967;
- (2) Topanga, CA, 1991;
- (3) Malibu Beach, CA, 1995;
- (4) Point Dume, CA, 1995;
- (5) Triunfo Pass, CA, 1994;
- (6) Point Mugu, Calif., 1949; photorevised 1967; photoinspected 1974;

(7) Carmarillo, Calif., 1950; photorevised 1967;

(8) Newbury Park, Calif., 1950; photorevised 1967;

(9) Thousand Oaks, Calif., 1950; photorevised 1981;

(10) Calabasas, Calif., 1952; photorevised 1967;

(c) Boundary. The Malibu Coast viticultural area is located in Los Angeles and Ventura Counties, California. The boundary of the Malibu Coast viticultural area is as follows:

(1) The beginning point is on the Canoga Park map beside Mulholland Drive at the 1,126-foot benchmark (BM 1126), located on the marked Los Angeles city boundary and the northern boundary of section 24, T1N/R17W. From the beginning point, proceed east-southeasterly along the Los Angeles city boundary approximately 3.25 miles to the marked 1,718-foot elevation point; then

(2) Proceed south-southwesterly along the Los Angeles city boundary approximately 4.35 miles, crossing onto the Topanga map, to the northeast corner of section 19, T1S/R16W; then

(3) Proceed east-southeasterly along the Los Angeles city boundary approximately 1.7 miles to the point east of Topanga Canyon where the city boundary turns south, and then continue southerly along the city boundary approximately 1.9 miles to the boundary's intersection with State Route 1 (the Pacific Coast Highway); then

(4) Proceed westerly on State Route 1, crossing onto the Malibu Beach map and then the Point Dume map, to the road's intersection with the unnamed

intermittent creek located within Walnut Canyon (near the Zuma Fire Station);
then

(5) Proceed southeasterly (downstream) along the unnamed intermittent creek located within Walnut Canyon to the Pacific Ocean's shoreline; then

(6) Proceed southwesterly along the Pacific Ocean shoreline approximately 1.5 miles to Point Dume and then continue northwesterly along the Pacific Ocean shoreline approximately 1.3 miles to the mouth of an unnamed intermittent stream; then

(7) Proceed northeasterly along the unnamed intermittent stream (upstream) approximately 0.35 mile to the stream's intersection with State Route 1 (at BM 30); then

(8) Proceed westerly on State Route 1 approximately 17.4 miles, crossing onto the Triunfo Pass map and then the Point Mugu map, to the road's intersection with an unnamed light-duty road known locally as Calleguas Creek Road; then

(9) Proceed north-northeasterly approximately 1.2 miles on Calleguas Creek Road, crossing onto the Camarillo map, to the road's intersection with an unnamed, unimproved road known locally as Caryl Drive; then

(10) Encircle an unnamed 350-foot hill by proceeding westerly on Caryl Drive approximately 0.2 mile to the road's intersection with an unnamed, unimproved road, then continuing on that unnamed, unimproved road around the hill in a clock-wise direction for approximately 0.8 mile until the road intersects again with Caryl Drive; then

(11) Proceed easterly on Caryl Drive approximately 0.55 mile to the road's intersection with an unnamed, unimproved road at Broome Ranch; then

(12) Proceed easterly on the unnamed, unimproved road approximately 0.2 mile to the road's intersection with the 80-foot elevation line; then

(13) Proceed initially northeasterly along the meandering 80-foot elevation line, and then continue to follow the meandering 80-foot elevation line westerly, then northeasterly to its intersection with West Potrero Road (near Camarillo State Hospital, now the site of California State University Channel Islands); then

(14) Proceed easterly on West Potrero Road approximately 0.5 mile to the road's third intersection with the 200-foot elevation; then

(15) Proceed northerly along the 200-foot elevation line approximately 0.75 mile, crossing over an unnamed intermittent creek in Long Grade Canyon, to the elevation line's intersection with a second unnamed intermittent stream; then

(16) Proceed westerly (downstream) along the unnamed intermittent stream approximately 0.75 mile to the stream's intersection with an unnamed medium-duty road known locally as Camarillo Street; then

(17) Proceed northerly on Camarillo Street approximately 0.7 mile to the street's intersection with an unnamed light-duty road at the south-bank levee for Calleguas Creek; then

(18) Proceed easterly on the unnamed light-duty road approximately 0.9 mile to the road's intersection with the 100-foot elevation line; then

(19) Proceed initially westerly and then continue easterly and then northerly along the meandering 100-foot elevation line, crossing back and forth between the Camarillo map and the Newbury Park map, to the 100-foot elevation line's intersection with the T1N/T2N boundary line near Conejo Creek on the Newbury Park map; then

(20) Proceed east along the T1N/T2N boundary line approximately 0.7 mile to its intersection with U.S. Highway 101 (Ventura Boulevard); then

(21) Proceed easterly on U.S. Highway 101 approximately 1.8 miles to the highway's intersection with Conejo Road (known locally as Old Conejo Road); then

(22) Proceed southerly and then easterly on Conejo Road approximately 0.75 mile to the road's intersection with Borchard Road (also known locally as N. Reino Road); then

(23) Proceed southerly on Borchard Road (also known locally as N. Reino Drive) approximately 0.9 mile to the point where Borchard Road (N. Reino Road) turns eastward, and then continue easterly on Borchard Road approximately 1.75 miles to Borchard Road's intersection with U.S. Highway 101 (Ventura Boulevard); then

(24) Proceed easterly on U.S. Highway 101 (Ventura Boulevard/Freeway) approximately 5 miles, crossing onto the Thousand Oaks map, to the highway's sixth and last intersection with the 920-foot elevation line in section 14, T1N/R19W (approximately 0.2 mile west of the intersection of U.S. Highway 101 and an unnamed road known locally as Hampshire Road); then

(25) Proceed southerly and then southwesterly along the meandering 920-foot elevation line to its intersection with an unnamed medium-duty road known locally as E. Potrero Road, section 27, T1N/R19W; then

(26) Proceed easterly on E. Potrero Road approximately 0.55 mile to its intersection with an unnamed heavy-duty road known locally as Westlake Boulevard, section 26, T1N/R19W; then

(27) Proceed northeasterly on Westlake Boulevard approximately 0.4 mile to the road's second intersection with the 900-foot elevation line, section 26, T1N/R19W; then

(28) Proceed easterly along the 900-foot elevation line, crossing the Los Angeles County–Ventura County boundary, to the elevation line's intersection with the boundary of the Las Virgenes Land Grant (concurrent at this point with the northern boundary of section 31, T1N/R18W); then

(29) Proceed northeasterly along the Las Virgenes Land Grant boundary approximately 0.3 mile, crossing Triunfo Canyon, to the boundary's intersection with the 1,000-foot elevation line; then

(30) Proceed westerly and then east-northeasterly along the 1,000-foot elevation line to the line's intersection with the Las Virgenes Land Grant boundary, and then continue northeasterly along the Las Virgenes Land Grant boundary approximately 0.2 mile to the boundary's intersection with U.S. Highway 101 (Ventura Freeway); then

(31) Proceed easterly on U.S. Highway 101 (Ventura Freeway) approximately 5.7 miles, crossing onto the Calabasas map, to the highway's

intersection with the northern boundary of section 30, T1N/R17, near Brents Junction; then

(32) Proceed west along the northern boundary of section 30, T1N/R17W approximately 0.5 mile to its intersection with the 1,000-foot elevation line; then

(33) Proceed northerly, southerly, and easterly along the meandering 1,000-foot elevation line, encompassing portions of Las Virgenes, East Las Virgenes, and Gates Canyons, to the elevation line's intersection with the western boundary of section 21, T1N/R17W; then

(34) Proceed north along the western boundaries of sections 21 and 16, T1N/R17W, to the section line's intersection with the Los Angeles County–Ventura County boundary line; then

(35) Proceed east along the Los Angeles County–Ventura County boundary line approximately 0.45 mile, and then proceed north along the country boundary line approximately 0.1 mile to the county boundary's intersection with Long Valley Road; then

(36) Proceed east-southeasterly on Long Valley Road approximately 1.7 miles to the road's intersection with the Los Angeles city boundary (approximately 0.1 mile north of U.S. Highway 101 (Ventura Freeway)), section 23, T1N/R17W; then

(37) Proceed south along the Los Angeles city boundary approximately 0.2 mile, then east-northeasterly approximately 0.2 mile, and then southeasterly approximately 0.9 mile to the city boundary's intersection with the northern boundary of section 26, T1N/R17W; then

(38) Proceed east-northeasterly along the Los Angeles city boundary approximately 0.3 mile, and then continue easterly along the city boundary approximately 0.5 mile, crossing onto the Canoga Park map, and returning to the beginning point.

Signed: June 24, 2013.

John J. Manfreda,

Administrator.

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